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ABSTRACT

Charter schools represent the fastest growing reform movement in public education today. This report focuses on what has been learned so far about the range of charter schools, and how to create effective charter school policies focusing on five states with statutes that have proven effective in spurring the creation of charter schools: Arizona, California, Massachusetts, Michigan, and Minnesota. It has become increasingly clear that the effectiveness of charter reforms is dependent on crucial, often highly technical, features of the charter statutes. A review of the experience of charter schools over the last 5 years identifies seven key features of effective charter statutes. These are: (1) allowing charter schools to be fully independent without prescriptions for their internal management; (2) providing charter schools with a blanket waiver of statutes and regulations other than those for performance-based goals or certain health or safety, civil rights, or education and administrative certification requirements; (3) creating new independent charter-approving entities; (4) protecting the integrity of the charter-approving process from political influence; (5) establishing direct state funding of charter schools at levels equivalent to average expenditures; (6) ensuring access to capital for up-front costs; and (7) avoiding limiting provisions that do not treat charter schools as fundamental reform. Across the five focal states, an array of charter schools, using at least six distinct models, is beginning to encourage reforms in regular public schools because of the competitive pressure of nearby charter schools. An appendix contains a table of charter school reforms by state. (SLD)

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CHARTER SCHOOL INNOVATIONS:
KEYS TO EFFECTIVE CHARTER REFORM

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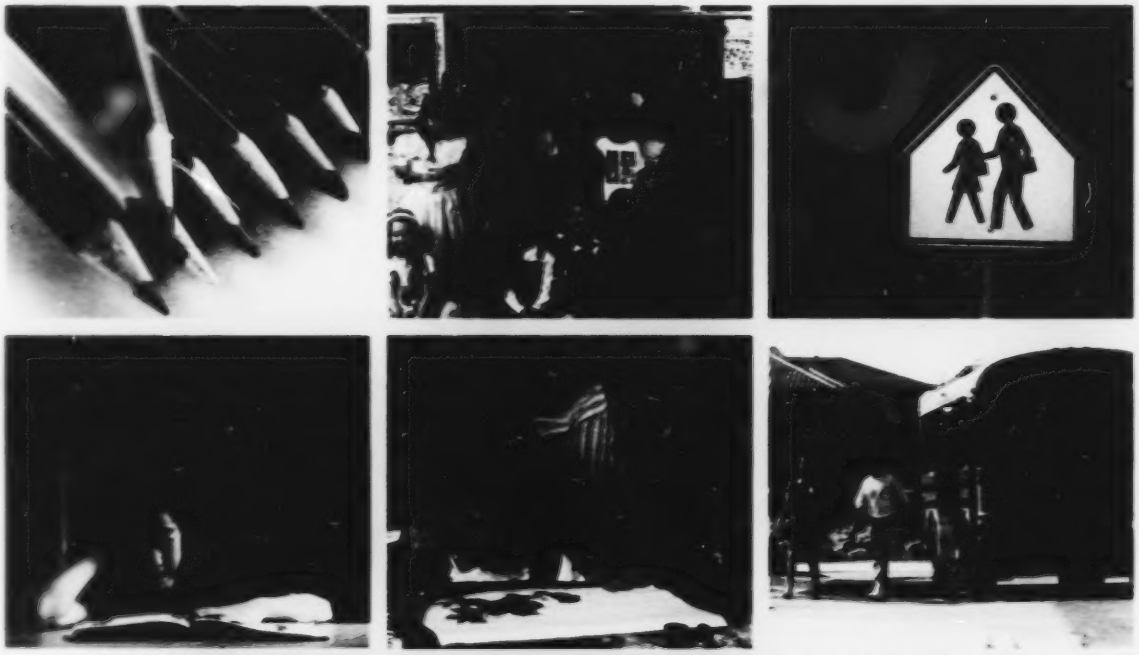

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Policy Study No. 228, July 1997

Charter School Innovations:
Keys to Effective Charter Reform

By Theodor Rebarber

EXECUTIVE SUMMARY

Charter schools represent the fastest-growing, reform movement in public education today. In just five years, 26 reform statutes have been passed and at least 475 schools have been established. Charter innovators in these states are redefining public education—from education that is provided by governmental entities to education that is offered by a range of public and private providers—that remains publicly-funded, nondiscriminatory and open to all, and accountable to public authorities for results. Typically, political support for charter reforms has cut across party lines, though, enacting effective legislation has required resisting pressure from established interest groups.

It has become increasingly clear that the effectiveness of charter reforms, including whether any charter schools result at all, is dependent on crucial, often highly technical features of the charter statutes. Among the 19 charter statutes enacted between 1991 and the fall of 1995, 11 resulted in the establishment of nine or fewer schools by the fall of 1996, with five statutes resulting in no charter schools at all. Even in those states where a significant number of charter schools have been established, specific features of the charter statute have had a major impact on the range and success of charter schools.

Based on the experience of charter schools over the last five years, seven key features of effective charter statutes can be identified. These included features:

- Allow charter schools to be fully independent, diverse legal entities and avoid prescriptions for their internal governance or management;
- Provide charter schools with a blanket waiver, including waivers for state statutes and regulations other than ones addresssing performance-based goals and assessments or health, safety, and civil rights, or education and administrative certification requirements;
- Create new independent charter-approving entities, such as a state charter board, or authorize existing state entities, such as a state board of education, to approve charters. Charters approved by local school boards should be subject to state review.

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- Protect the integrity of the charter-approving process by insulating charter-approving entities from political influence and requiring that decisions be made on the basis of clear and objective criteria.
- Establish direct state funding of charter schools at a level equivalent to the average of all state and local expenditures, including both operating and capital revenues.
- Ensure that charter schools have access to adequate public or private capital for facility and other major up-front costs that require long-term repayment schedules. Either authorize long-term (15-year) charters that permit typical facility repayment schedules or establish a process for charter schools to obtain equivalent public loan guarantees or credit enhancements.
- Avoid limiting provisions that treat charter schools as "lighthouse" or "experimental" schools rather than as fundamental reform, such as an overall cap on the number of charter schools.

Implementation of successful charter reforms in an increasing number of states, including the five profiled in this study, has demonstrated the potential of the charter mechanism. Contrary to the fears of some that charters would "cream" the best non-minority students and leave the rest worse off than before, the evidence so far appears to indicate that charter schools serve a more diverse and disadvantaged population than regular public schools.

Across the different states, a broad array of charter schools has resulted, including at least six distinct models: schools managed by grassroots organizations, schools focused on special student populations, schools centered around distance learning/home learning, business-managed schools, schools structured as teacher cooperatives, and schools converted from regular public schools.

Each of these models has distinct features, including organizational structure and mission, service delivery mechanism, or clients served. Schools established by grassroots groups (including parents, teachers, and community organizations) are currently the most numerous, as well as the type most favored by those involved with the current educational system. Home-learning schools represent the most innovative break with the past, but also the most controversial. Slightly less controversial to date are business-managed charter schools. Such schools, however, also appear to have a strong interest in replicability, an orientation toward research-tested educational methods, and provide greater access to up-front capital and managerial talent. A substantial number of charter schools serve special student populations (such as dropouts or students with disabilities), representing a powerful response to those critics that predicted that market-style reforms would leave behind those populations in greatest need.

In states where a healthy charter movement exists, reforms in regular public school districts have begun to be implemented as a result of the competitive pressure of nearby charter schools. Such positive effects of competition represent the fastest way for charter schools to spur broad improvement in the education of most school children.

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Part 1

Introduction

Since Minnesota passed the first charter statute in 1991, laws authorizing the establishment of charter schools have been enacted in 25 states and the District of Columbia.[1] For a new reform that is still too young to show definitive results, the speed with which charter schools have taken center stage in reinventing public education is breathtaking. Yet this speed is no accident. For while charter schools are ostensibly "new," they represent a general reform strategy that responds powerfully to three converging forces: decades of educational research regarding the structural reforms necessary in education, an emerging political consensus among many Democrats and most Republicans, and a yearning among parents and the general public for a more dynamic, professional, and accountable educational system. Together, these forces are driving what may turn out to be the most fundamental rewriting of the basic groundrules, assumptions, and premises of public education in at least a century.

But to an unprecedented degree in the arena of public education, where existing structures have largely remained unchanged since the 19th century, the success of this new reform movement is dependent on the specific legal provisions of state authorizing legislation. These often highly technical statutes can spell the difference between a policy environment that is conducive to the creation of new learning opportunities and one that creates so many hurdles that even the most committed reformers throw up their hands and decide nothing worthwhile can grow in it. Even between these poles of effectiveness, there are a range of options in key areas that can have substantial impact. This study takes stock of what we have learned so far about the range of charter schools and how to go about crafting effective state charter policies, focusing on five illustrative states with statutes that have been proven effective at spurring creation of charter schools: Arizona, California, Massachusetts, Michigan, and Minnesota.

[1] See Appendix for a list of the charter statutes.

Part 2

Background

A. Cross-Cutting Political Support

Political support for charter schools cuts across party lines. While most of the opposition to charter schools has come from public education establishment constituencies traditionally allied with the Democratic Party (e.g., the teacher unions), strong support by reform-minded Democratic policy makers has been a hallmark of the charter movement. In his state of the union speech to the nation in January 1997, Bill Clinton called for the establishment of 3,000 charter schools, a seven-fold expansion, by the end of this decade. The decisive breakthrough in passing the first charter school statute came when Minnesota Democratic state representative Ken Nelson switched his position from opposing to supporting the measure. The author of the California charter law, former Democratic state senator Gary Hart, described the legislation as "a license to dream."

But while Democrats have often provided the decisive margin of support, Republicans have typically pushed to enact the strongest charter reforms possible. In 1996, a year of sharp partisanship on most issues at the national level, a Republican Congress passed, and President Clinton signed, a far-reaching charter bill for the District of Columbia that is among the bolder charter statutes enacted to date. Republican governors, such as John Engler of Michigan and Bill Weld of Massachusetts, have been among the most important and committed political advocates of charter reforms. More recently, they've been joined by governors Christine Whitman of New Jersey and George Pataki of New York.

While the political scene remains fluid regarding such a new policy, a combination of philosophical overlap and political imperative appears to be preserving a sense of bipartisanship and providing strong fuel for the charter movement. Most Republicans are naturally attracted to a movement that contains market-style policies of consumer choice, competition, and new and diverse providers. The political potential of parents as a constituency favoring choice among schools is also attractive. Some Republicans hope that charter schools can serve as the first step toward a broader system of publicly funded choice that includes private schools. Many Democratic supporters see a potential for harnessing market mechanisms while still preserving core principles of public education. Others see an opportunity for empowering teachers to create more professional school environments. Further, some Democrats hope that charter schools will serve to divert and channel the political pressure of proposals for private school choice, which they generally oppose.

B. Education Reform Roots

Charter schools are sometimes portrayed by opponents as if they sprouted from nowhere in the early 1990s, constituting a new and unproven direction for reform. In fact, while the specific "charter" mechanism may itself be new and still "unproven," the basic approach is based on decades of education research and policy developments. The earliest roots may be found as far back as the 1960s, when researcher James Coleman shocked the education world with his study casting doubt on the usefulness of traditional input measures that could be enhanced through increased spending per pupil in altering educational achievement.[2] Subsequent studies largely confirmed and elaborated on Coleman's findings.[3]

But that did not mean that all schools were equally effective in educating students. Some schools were able to raise educational achievement substantially higher than other schools, even after taking into consideration socioeconomic factors such as family income and parent education levels. One line of research sought to identify the factors that were present in such "effective schools" and found broad organizational characteristics that could not easily be manipulated by policy makers.[4] Such characteristics included: strong leadership, school mission focused on student results, broad agreement among staff on overall approach, and a view of schools as problem-solving rather than rule-following institutions. Other studies found school independence from governmental control, especially from local school districts, to be associated with greater student learning.[5] A school district in East Harlem, New York, climbed from dead last in city-wide student achievement to the middle of the rankings after allowing groups of teachers to start new schools and permitting students to choose the ones they wished to attend.[6] Yet the schools in East Harlem continued to face a New York City central school district that resisted granting them the autonomy they needed, while few districts in other parts of the country seemed interested in the East Harlem approach and fewer still tried to implement it.

Meanwhile, the broader political and policy arena shifted dramatically in the 1980s, as deepening dissatisfaction with educational performance resulted in greater openness to solutions that previously would have been dismissed as too radical. Published by the federal government, *A Nation At Risk* crystallized public dissatisfaction in 1983 with its memorable charge of a "rising tide of mediocrity."[7] In 1986, then Tennessee governor Lamar Alexander signaled in *Time for Results*, a report by the National Governors Association (NGA), that "...the governors are ready for some old-fashioned horse trading. We'll regulate less, if schools and school districts produce better results."[8] But efforts to improve organizational effectiveness without changing the groundrules of the existing system, through such reforms as site-based management and shared-decisionmaking, resulted in much frustration and little lasting improvement.[9]

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2 James S. Coleman, *Equality of Educational Opportunity*, (Washington, D.C.: U.S. Department of Health, Education, and Welfare, 1966).

3 See, for example: Eric A. Hanushek, "The Impact of Differential Expenditures on School Performance," *Educational Researcher*, Vol. 18, No. 4, May 1989.

4 Stewart C. Purkey and Marshall S. Smith, "Effective Schools: A Review," *The Elementary Schools Journal*, 1993, pp. 427–452.

5 John E. Chubb and Terry M. Moe, *Politics, Markets, and America's Schools*, (Washington D.C.: The Brookings Institution, 1990).

6 Sy Fliegel, with James Mcguire, *Miracle in East Harlem: The Fight for Choice in Public Education*, 1993.

7 U.S. Department of Education, *Nation at Risk*, (Washington D.C.: U.S. Government Printing Office, 1983).

8 National Governors Association, *Time for Results*, Center for Policy Research and Analysis, NGA, Washington, D.C., 1986.

9 See, for example: Paul Hill and Josephine Bonan, *Decentralization and Accountability and Public Education*, (Santa Monica: CA: RAND Corporation, 1991).

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The late American Federation of Teachers (AFT) president Albert Shanker was an early advocate of charter schools,[10] though what he seemed to mean by the term was best exemplified by the troubled East Harlem approach, along with a union veto over the existence of any such schools. An early, more profound analysis of charter schools principles was proposed by charter advocate Ted Kolderie of Minnesota.[11] Kolderie highlights a key feature of substanative charter school reforms: school districts lose their monopoly on the delivery of public education within their geographic boundaries, thus rejecting the "public utility" model of public education. The design of Minnesota's charter school law, the first in the nation, was consistent with this crucial insight.

Part 3

Charter Schools In Practice

Though evidence from the 480 charter schools operating as of October 1996[12] is still preliminary, we can identify certain patterns that are emerging across various states and localities. Early concerns that charter schools might turn out to be elitist or discriminatory, either in their practices or in their impact, appear to have been misplaced. In addition, an extraordinarily diverse range of charter schools has been established, with few specific features in common but with most exhibiting the general characteristics of effective organizations. Finally, while the total number of charter schools is still relatively small, we can already see several alternative missions and organizational structures emerging, and we can begin examining the advantages and disadvantages of each of these "models."

Charter schools appear to be serving a broad cross-section of students, whether measured in terms of diversity or educational challenge. In the six states with the most charter schools, 40 percent of charter students may be classified as minority, substantially more than the 31 percent of public school students that fit the same description.[13] A study by the Education Commission of the States found that at least half of charter schools it surveyed were designed to serve students "at risk."[14] Further, charter schools seem to attract a disproportionately high percentage of students who were not succeeding well in their previous schools. Though no comprehensive data are yet available on the type of students choosing charter schools, the cases encountered in this study were consistent with the findings of these earlier studies.[15] Of course, such a result would make sense since the parents of students who are performing well in public schools are presumably less likely to be seeking alternatives.

The charter schools themselves range broadly in their designs and in their educational philosophies, from traditional to progressive to numerous permutations in between. But they share certain characteristics that appear to indicate they either already are, or are likely to become, effective school organizations. Charter schools are almost always established by committed, often dynamic, leaders. They attract similarly hard-working staffs that put in long hours despite salaries that are often below the level of surrounding public schools. And they almost always have a distinctive educational vision or approach that attracts staff and parents who share that approach; over time, that vision is strengthened further as those who disagree with that vision decide—sometimes with encouragement—to seek another school.

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[12] Center for Education Reform, *Chart*, Washington, D.C., October 16, 1996.

[13] Analysis by Louann A. Bierlein, cited in Chester E. Finn, Jr., Louann A. Bierlein, and Bruno V. Manno, *Charter Schools in Action: A First Look*, Hudson Institute, Educational Excellence Network, Washington, D.C., January, 1996.

[14] Education Commission of the States and Center for School Change, *Charter Schools...What are they up to?* Education Commission of the States, Denver, Colorado, 1995.

[15] For an example of such data from another study, see Chester E. Finn, Jr., Bruno V. Manno, and Louann A. Bierlein, *Charter Schools in Action*.

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Further, in all states except California (where converted public schools and home-schooling charters are sometimes quite large) charter schools tend to be smaller in size than most public schools, with the aim of creating a tighter school community.[16] While some charter school "failures" are inevitable and predicted by supporters and opponents alike, it has been something of a surprise that only four charter schools so far have actually had their charters revoked.[17]

Stepping back from the specific features of individual schools, one can identify at least six charter "models." While the models are not always exclusive (i.e., some charter schools qualify under more than one category), they represent distinct organizational structures or missions. These include:

- *Grassroots Organizations.* Such schools are by far the most common model. They typically consist of groups of parents, teachers, community organizations, or combinations of these.
- *Distance Learning/Home Schooling.* In some ways the boldest departure from the existing system, such charter schools can take advantage of state-of-the-art technology to offer interactive learning environments at home. Our experience with such charter schools has largely been limited to California, where they have often been established by school districts.
- *Special Population.* The second most prevalent after "grassroots" charters, these schools, which focus on special populations such as dropouts or students with disabilities, form the second largest category (though many of them also qualify as grassroots organizations). They tend to be smaller than other charter schools, constituting a substantial portion of the secondary schools that have been established.
- *Business-Managed Schools.* Charter schools managed by private companies, such as The Edison Project, form a small but growing portion of the schools established so far. Such schools are distinctive in their commitment to forming tightly knit organizations together with other schools managed by the same company, among other features.
- *Teacher Cooperative.* One school in Minnesota, the New Country School in Le Seuer, has been established as a teacher cooperative. It highlights the potential of innovative organizational structures to empower teachers and offer them a fundamentally different role, one that some have argued is likely to enhance professionalism.
- *Public School Conversions.* Requiring a majority or super-majority vote of current teachers, and often parents as well, to be established, regular public schools that convert to charter schools form a significant portion of all charter schools (though a minuscule fraction of the potential number of conversions possible).

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[16] One study (described in Michael A. Resnick, *Charter Schools Legislative Notes*, National School Boards Association, February, 1996) found a charter school mean size of 287 students, while others have found somewhat larger schools, but all agree that charters are, on average, smaller than most public schools. Many schools that target certain at-risk populations, such as dropouts, serve fewer than 100 students.

[17] Three California charter schools have had their charters revoked, including EduTrain in Los Angeles, Johnson Urban League in San Diego, and Windows in San Diego. Citizen 2000, in Phoenix, is the only school in Arizona that has had its charter revoked.

Part 4

The Charter School Statutes

A. Key Differences Among the Statutes

The fate of individual charter schools depends in large measure on the talent and effort of the individuals in a particular school. But whether charter schools, as a group, flourish or fail in a particular jurisdiction is determined primarily by the specific provisions of the relevant charter school statute.

Among the 26 jurisdictions that have charter school statutes, the differences in key provisions, some of them quite technical, can be crucial. In evaluating the various charter statutes, charter proponents have tended to emphasize two criteria: the degree of charter school autonomy and whether an entity other than the local school district may grant a charter. Statutes that satisfy such criteria are often referred to as "strong" while others are labeled "weak." More recently, others have proposed more neutral terms, such as "expansive" or "restrictive."[18]

Regardless of the particular terms used to evaluate charter statutes, many state statutes are failing a minimal, objective "market" criterion: they have been ineffective in authorizing a significant number of charter schools or, in some cases, any schools at all. On the basis of this somewhat stark set of results, an even more accurate description of "weak" statutes that have proven incapable of accomplishing their stated purpose might be that they are simply "ineffective" in achieving stated goals.

There exist important differences among the "stronger" statutes, some of which are highly technical but have important consequences. Instead of attempting to rank the more effective statutes on the basis of "strength," this study identifies the key policy issues raised by these differences and highlights recommendations for those interested in developing high-quality statutes. Even relatively effective statutes are often riddled with provisions that reformers might wish to avoid in developing new laws, or in improving older ones. Such flaws were sometimes the result of political compromises necessary to pass legislation, while in other cases the provisions may have been well-intended but experience has since suggested better solutions.

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[18] M. Buechler, *Charter Schools: Legislation and Results After Four Years*, Bloomington, Indiana, Indiana Education Policy Center, 1996.

B. Arizona

Enacted in a special legislative session in June 1994, on the heels of an unsuccessful effort to enact private school vouchers, Arizona's charter schools statute contains features that are widely viewed as among the most favorable of any statute for charter developers.[19] The charter statute authorizes any individual, group, or entity to apply for a charter. Applications may be filed with a local school board, the state board of education, or a newly created state charter board. Each of these entities may independently approve charter school applications. Approved charter schools are designated independent government entities with full autonomy from local school districts. Up to 25 charters may be approved annually by the new charter board and a similar number by the state board of education. There are no limits on the number of schools that may be approved by local school districts.

Under the leadership of Superintendent Lisa Graham Keegan, implementation of the charter statute is proceeding at a strong pace. In 1995, 69 charters were operating in the state (serving over 6,500 students), while 163 had opened their doors by fall 1996.[20] Far from "skimming" the best students, as critics had predicted, most Arizona students served by charter schools scored below statewide averages on standardized tests. As in other states, charter schools in Arizona have demonstrated an ability to attract students previously enrolled in private or home schools: approximately 30 percent of students in charter schools were not previously enrolled in Arizona public schools.[21] The unexpected result has been a net increase in the total amount spent by the state for public education, even though charter schools receive only $4,357 per student in public funds compared to $5,371 for regular public schools. Over ten years, however, the difference could result in up to $368 million in total net savings to the state as more students attend charter schools, at the lower per-student funding levels, rather than traditional public schools.[22]

In 1996, the Arizona legislature enacted two substantial amendments to the charter statute. One lengthened the term of Arizona charters to 15 years from the previous five, while the other removed a prohibition on charter schools owning property purchased through operating funds. Both amendments, which were supported by most Arizona charter schools, were targeted at enhancing the ability of charter schools to secure adequate facilities.

Prior to the amendments, Arizona charter schools were in the untenable position of receiving no extra capital funds from the state and being unable to sell bonds. At the same time, they were also unable to leverage their operating funds for this purpose because no bank would make a loan for property without the right to foreclose and gain title if the school was unable to pay off the loan (previously, title reverted to the state). Lengthening the term of charters also made it easier for charter schools to seek loans for this purpose because such loans often extend at least 15 years; no commercial bank has ever provided a loan to a charter school for a term longer than the term of the charter. Even with such enhancements to the statute, the challenge of financing capital improvements on relatively low per pupil operating revenues (by national standards) continues to be a major challenge.

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[19] See, for example, Louann A. Bierlein, *Chart*, 1995.

[20] Center for Education Reform, *Chart*, October 16, 1996.

[21] Mary Gifford, with Timothy Keller, *Arizona's Charter Schools: A Survey of Parents*, Goldwater Institute, Arizona Issue Analysis #140, April 1996.

[22] Jeffrey Flake and Mary Gifford, *Charter School Myth*, Goldwater Institute, February 8, 1996.

Arizona is also facing a number of technical issues related to its funding mechanism. A funding cycle that traditionally funded public schools based on the previous year's enrollment has resulted in an unnecessary cost of approximately $35 million to the state each year for students that transfer into charter schools but that are still counted on public school rolls.[23] Other difficulties arose from a dispute over the amount of transportation funding charter schools should receive (many expected to receive more than they were actually given) and an uneven system of payments over the course of the school year. These problems created significant financial difficulties for several charter schools. In response, in 1997, the state was considering a shift to "real time," monthly funding for all publicly funded schools—charter and traditional—based on current enrollment.

Despite these difficulties, a broad range of new charter schools have been established (see Table 1). While home schooling/distance learning charters are prohibited by the statute, there are a substantial number of business-operated charters, as well as grassroots and special-population charters. While public schools have shown relatively little interest in conversion, several private and nonprofit educational institutions have converted to charters and substantially expanded the number of students they serve.

Table 1 - The Origins of Charter Schools in Arizona[24]

12	Private School
5	Public school
9	Community-Based Organizations
24	New
2	For-Profit Organizations

Perhaps because Arizona has proceeded fastest among the states down the path of fundamentally restructuring its education system, it may be encountering later-stage hurdles that most other states have not yet reached. Arizona has already found it necessary to revoke the charter of one school—Citizen 2000 of Phoenix. In an incident well-covered in the local press, the school was found to have overreported student enrollment in an effort to obtain funds to which it was not entitled.

Some of the early enthusiasm of grassroots charter school developers in the first two years is increasingly balanced by a greater appreciation for the enormous challenges involved in starting and operating new schools. The number of applications filed with the state charter-approving boards was appreciably lower for the 1997-1998 academic year, while the state is taking a more cautious approach to screening charter applicants. In an effort to recruit the broadest possible pool of quality applicants, the state also appears to be making a conscious effort to invite national education-management companies to apply for charters.

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[23] Jeffrey L. Flake, *A Common Sense Charter School Agenda*, Goldwater Institute, March 4, 1996.

[24] Mary Gifford, with Timothy Keller, *Arizona's Charter Schools: A Survey of Parents*.

Case Example #1: Arizona School for the Arts

Arizona School for the Arts, "where academic rigor and artistic achievement meet,"[25] opened its doors as a new school in August 1995. Serving high school students in its first year and adding middle school in fall 1996, this charter school provides a college preparatory academic curriculum even as it focuses on performing arts instruction at the conservatory level. It is located in a facility on church grounds, though it has no affiliation with the church, and the facility was chosen, at least in part, because it is near the Phoenix arts district.

There have been a few surprises. More than 50 percent of entering students score below grade level, which has required some adaptation to help students attain the school's challenging academic goals. Some students had chosen the school on the basis of the arts focus, not expecting to have to spend as much time on other subjects. The school has experienced a learning curve in filling out the voluminous forms required for state and federal programs and regulations. Implementation proceeded very well in the first year and the school plans to grow to a student body of 250 students.[26]

Case Example #2: Heritage Academy

Begun in the fall of 1995, Heritage Academy charter school operates two campuses, one for 100 students in Clarkdale and one for 160 students in Mesa. The common thread across the curriculum is "the study of great men and women ...who were significant in their influence, and are considered outstanding role models." The emphasis is on developing in students "an appreciation for history, living right, and correct principle."[27] Students maintain portfolios of their best work that demonstrate attainment of educational objectives. The Mesa school serves students in grades seven through twelve, while the Clarkdale school serves students in grades six through twelve.

Heritage was converted from a private school to a charter school. Based on their previous business record, the school administrator was able to secure a $75,000 loan to assist with start-up costs. The Mesa school is located on the grounds of a Jewish temple (solely on the basis of the quality of the facility and with no affiliation). Heritage encountered some unexpected obstacles. An attempt to purchase computers from one vendor was stymied when it was not permitted to satisfy the company's condition of encumbering future public dollars to pay for them. As a result, they were not able to procure computers until two weeks after the school opened. Due to a change in state policy regarding transportation funds for charter schools, Heritage unexpectedly had to cut $100,000 from its budget in the last four months of its first year. Despite such difficulties, the school is proceeding well and eventually may expand to other sites.[28]

[25] Arizona School for the Arts, pamphlet, June 1996.

[26] Arizona School for the Arts, personal communication from Arts Director Mark Francis, June 2, 1996.

[27] Heritage Academy, personal communication from Principal Steve Anderson, June 3, 1996.

[28] Ibid.

C. California

In 1992, California became the second state to authorize charter schools. In California, authority to grant charters is held by local school boards, and rejected applicants are permitted an appeal to county school boards.[29] The statute states broadly that charter schools should be treated as entities separate from the local district, but it does not specifically delineate the legal status of charter schools or require that they be fully independent. A charter applicant is also required to obtain endorsements from either ten percent of teachers in the district or 50 percent of teachers in a particular school in the district.

With over 100 charter schools operating in California by fall 1996, progress so far has been encouraging for charter advocates. Implementation, however, has been hard-fought and uneven. Many of the difficulties encountered can be traced to provisions in the statute placed there by opponents. Most damaging has been the dominance of local school districts in the charter-approval process, as well as the lack of clarity on independent legal status for charter schools. While California has more charter schools than any other state, proportionately the number is relatively low given the size of the educational system and the number of years the statute has been in effect.

The great majority of California charter schools have had to accept only partial autonomy and partial funding as a condition for obtaining a charter from their local districts.[30] Districts have sometimes imposed burdensome requirements, such as workplace rules contained in the district's collective bargaining agreement. One district imposed a new ten percent funding surcharge, in addition to 15 percent previously agreed to, because the district is experiencing a budget shortfall and prefers not to reduce its own expenses. The charter school, however, has little recourse since its funding flows through the district, and the renewal of its charter will also ultimately depend on the district.

The type of charter schools that have been established in California, as categorized by the six charter models, is unusual in comparison to other states. Due to district dominance of charter approvals and the requirement of teacher endorsements of the applications, the playing field has favored applicants that are already politically well-attuned to the local district. Thus, California has the largest percentage among states of charter schools converted from regular public schools (35 percent of all California charters), more than "start-up" charter schools of all kinds (32 percent of all California charters).[31] Even "supportive" California districts sometimes regard charter schools less as levers for systemwide reform than as yet another opportunity for top-down, "model" schools.[32]

At the same time, California's statute is less restrictive than most other statutes in one important way: it does not prohibit charter schools from offering independent study or home instruction. As a result, over one-fifth of California charter schools consist of independent study/home instruction programs (21 percent). Because of the charter approval process, most—though not all—of these appear to have previously been district programs that were granted a charter by the district. (If one also includes these in

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[29] In California, county districts are administrative units that provide services to local districts, such as bus transportation.

[30] By one count, only two of the 89 schools operating by spring 1996 were fully autonomous of their local district.

[31] Little Hoover Commission, *The Charter Movement: Reform School by School*, March 1996, p. 18.

[32] In the San Carlos Elementary School District, the district superintendent used the charter statute as an opportunity to create his own version of the ideal school. While the school appears to have been granted substantial autonomy and may turn out to be a good school, such "pilot" schools have never been successful at spurring broader reforms. They are also a far cry from the bottom-up, market-style system envisioned by charter advocates.

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the count of converted public schools, a majority of California charter schools would fall into that category.)

While often limited to one home-instruction charter in a district, these fast-growing schools are competing across the state to serve interested families, sometimes in innovative ways. The Choice 2000 charter school takes full advantage of modern technology—including the internet and instructional software—to provide structured, on-line education to its students. One of the most popular of such charter schools, Horizon Instructional Systems, suffered months of harassment by the state department of education. In a bizarre episode, the state insisted that this particular charter school, unlike any other, could not provide learning opportunities to its students that were not also offered to other district students. Not only was this requirement inconsistently applied, but its thrust was in direct contradiction to the charter statute's goal of creating new, previously unavailable, educational opportunities.[13]

A pattern of difficulties has been caused by an indifferent, sometimes even hostile, state education bureaucracy. For example, the state department has interpreted the law in such a manner that charters approved on appeal to a county board are subject to all state education regulations (while district-approved charters are exempt).

The Little Hoover Commission, an independent state panel, found that the state department of education has:

1. declined to fund charter schools directly, ignoring the "wording and intent" of the statute to the contrary;
2. created confusion by treating similar schools differently;
3. interpreted the law in ways not intended by the legislature; and
4. in the past, provided only lukewarm support for those seeking technical assistance.[14]

The commission recommended that the legislature pass a range of amendments to strengthen the charter statute, including designating additional supportive chartering entities, guaranteed independence for charter schools, and direct funding from the state. Despite encouragement from Republican Gov. Pete Wilson, retired Democratic charter statute author Gary Hart, and others, the legislature has been unable to enact any improvements in the law. Opposition to the reforms was organized by representatives of the public education establishment, led by the California Teachers Association (CTA).

While most California charter schools have generally been viewed as highly successful, especially by the parents and educators associated with them, California also has had to face the largest number of charter school closings. By 1997, three schools had their charters revoked. Edutrain, Los Angeles, had its charter revoked for financial mismanagement. The Johnson Urban League charter school in San Diego had its charter revoked for asserting legal independence from the local district. The Windows school in San Diego had its charter revoked due to a facility-related matter. While not all of these failures can be laid entirely at the feet of the school and its management, the very fact that charters may be closed and have their charter revoked under certain circumstances demonstrates that charter schools are far more accountable than regular public schools.

[13] The state department of education eventually relented, but only after months of threatening the existence of the charter school.

[14] Little Hoover Commission, *The Charter Movement: Reform School by School*, March, 1996.

Case Example #3: Johnson Urban League Charter School

Established through a partnership between John Johnson of the Urban League and a group of public school teachers, the school was the first charter school created by a civil rights organization. The school had a special focus on space and technology, including a partnership with Hewlett-Packard Corporation. As a conversion of an existing public school, the majority (approximately 70 percent) of teachers stayed on as staff in the charter school. The teachers remained a part of the local union and were subject to the existing collective bargaining agreement.

The school district handled administrative functions, though it allowed the school some flexibility in management decisions. Using savings accomplished through more-efficient budgeting, the school, which enrolled 450 students, was able to hire the private firm Berlitz, Jr. to provide Spanish instruction. Teachers were motivated to become a charter school because of instructional differences with the district. Instead of teaching reading through "whole language," teachers decided to use the direct instruction approach after a meeting with Houston education consultant Thaddeus Lott. Teachers wished to require uniforms for students.[35] Early implementation difficulties, including persuading parents of the merits of year-round schooling as well as internal differences regarding spending and management decisions, set the tone for subsequent problems. Different expectations between the school's leadership and district and school staff on the key issues of autonomy and control, as well as the murky nature of statutory provisions in this area, eventually led to the school's demise. When the school leadership eventually sought to clarify its authority and declared full independence, the district revoked the school's charter.

Case Example #4: Horizon Instruction Systems

Horizon Instruction Systems, a home-instruction charter school, is succeeding despite an extended campaign by the state education department to shut it down. While the state department of education has now backed off, for months it harassed Horizon on the basis of a unique interpretation of a state law originally intended to prevent schools of choice from offering inappropriate "bounties," such as toasters or stereos, to solicit applicants.

The educational program is designed to allow students to work at their own pace. Students choose Horizon for a broad range of reasons, according to the school. Some attend Horizon because they were insufficiently challenged at their previous school; one twelve-year-old student recently graduated from high school and is now attending community college. Others attend because they were overly challenged and falling behind, while still others reported being physically threatened. According to the school, student scores on the Comprehensive Test of Basic Skills (CTBS) standardized test are above national norms.[36]

The brainchild of teacher Randy Gaschler, Horizon was created to address what he saw as an unmet need, though even he underestimated the demand. Horizon school is currently serving 870 students. Originally, the plan was to expand by an additional 100 students, but after receiving 500 new applications, Horizon now plans to enroll as many as 3,000 to 4,000 students: "Whatever it takes," says Gaschler.[37]

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[35] Jane Schaper, personal communication, July 1996.

[36] Randy Gaschler, personal communication, July 1996.

[37] Ibid.

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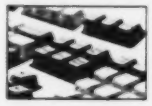
Case Example #5: Choice 2000 On-Line School



One of the most innovative charter schools in California, Choice 2000 uses modern, internet technology to offer its home-instruction program to nearly 200 students. The school began in fall 1994 as an enhancement of the local district's previous home instruction program. Founder Michael Allen came up with the idea and the district agreed to pass the charter. The district also advanced the school $114,000 in start-up funds to pay for hardware and other capital costs and provided it with some space.

The school uses the California frameworks and district curriculum for its own curriculum, but students learn using instructional software and through on-line bulletin boards. To enroll, families must own or purchase a computer with a fax modem. Students are required to be on-line at least two hours each day, five days a week, providing the state with evidence of "average daily attendance" that it uses to calculate funding. A switch in phone access providers, which the students use to call in each day through their modems, has permitted the school to cut their largest cost from over $5,000 to approximately $600 each month.

As the school has grown, the district has allowed the school to expand its facility from a 12 foot by 12 foot room to a 2000 square foot building, for which the school pays rent. The district benefits because nearly 80 percent of the school's students are from outside the district, and it receives a portion of student aid as overhead. Aiming to minimize bureaucracy, the school began without an administrator; that proved untenable, however, and one was added in the second year. The teachers union has become increasingly hostile, even "divorcing" charter school teachers and ending their union membership. Succeeding in overcoming such difficulties, Choice 2000 aims to expand over the next two to three years to serve up to one thousand students across the state and out-of-state (with the latter paying tuition).[38]

D. Massachusetts

The Massachusetts charter school statute was adopted as part of the state's comprehensive 1993 Education Reform Act. Under the statute, those eligible to submit an application to establish a charter school include, but are not limited to, a "business or corporate entity, two or more certified teachers or ten or more parents." Under the original approval process established by the statute, applications were submitted to the secretary of education, an appointee of the governor who headed the Executive Office of Education. The Executive Office of Education, including the position of secretary of education, were abolished in 1996. If the current cap on the number of charter schools is raised, it is expected that the state board of education would become the charter-approving body.

Charter schools in Massachusetts are an unusual organizational form that, while essentially government agencies, also have private-sector characteristics. On receipt of the charter, the school's board of trustees becomes a public instrumentality of the Commonwealth of Massachusetts. Many charter schools, however, have elected also to establish parallel 501(c)3 nonprofit corporations for the purpose of soliciting and receiving private gifts for the school, just as have many traditional school districts.

Significantly, local districts and their central administrative offices and unions have no legal jurisdiction over the new schools. Districts have neither the authority to prevent new schools from opening schools within their borders, nor the right to impose any of the terms of collective bargaining agreements or central office directives. Schools have also assumed that burdensome court orders (some 400 individual orders in Boston alone imposed by one judge during the district's "desegregation") do not apply to them.

[38] Myque Jeffers, personal communication, July 1996

As to state statutes and regulations, the statute explicitly states that "all school laws" shall apply, but it exempts charter schools from what many argue is the single most-debilitating state statute: teacher tenure. Much of state education law describes the roles and responsibilities of parties not present in charter schools (e.g., school committees, superintendents). Thus, it is largely irrelevant to the new schools. Furthermore, state law imposed almost no specific curricular requirements. The 1993 Education Reform Act does direct the Board of Education to establish curriculum frameworks and corresponding assessments; charter schools will have to comply with these new requirements once promulgated.

Charter schools are also exempted from a new requirement that was imposed on all traditional schools at the same time the charter school law was adopted: the requirement to establish site-based management councils. Charter schools are free to establish the governance model of their choice, as described in their applications.

The law also underscores that schools must comply with the state's unusually prescriptive special and bilingual education laws, which many charter schools have found burdensome (and whose costs it is difficult to amortize over a small number of students).

The schools are eligible to receive the "average cost per student" of the district in which their students reside. While a plain reading of this language would suggest that total spending by a district would simply be divided by the number of pupils in the district, state officials have implemented this provision in such a way as to exclude certain capital funds and all federal funds. Charter schools may apply separately for federal grants, but their applications for entitlement monies are held to a different and higher standard of proof of eligibility than are those of traditional school districts.

The state and local portion of "average cost per student" is paid quarterly to the charter schools. The responsibility to provide these funds to the charter schools rests with the municipality. However, the law was amended to authorize the state to deduct these tuition obligations from state aid otherwise owed the municipality and route the funds directly to the charter schools. This has prevented districts from acting on threats not to comply with the law by withholding or delaying payments to the charter. On average, this combined state and local capitation is $5,695 per student; at the extremes, in 1995-1996, it was $4,496 in Boston and $8,065 in Cambridge.

From general education reform funds, the state has provided small start-up grants to charter schools, as well as funds via the Department of Education for the implementation of the 1993 Education Reform Act. For the most part, however, the law does not provide for significant start-up funds or capital funds.

The law caps the total number of charter schools at 25 and the total enrollment in charter schools to three-quarters of one percent of students statewide. Further caps limit the number of schools to five in Boston, five in Springfield, and two in any other city or town. The first 15 charters were awarded in March 1994; the remaining ten charters were awarded in 1996. The first 14 schools successfully opened their doors in September 1995, while nine opened in fall 1996. The remaining schools plan to open within the next two years.

The initial response to the new schools has been positive. With every school oversubscribed by students, a movement got underway to have the cap on the number of schools lifted. The state's largest school, the Boston Renaissance Charter School, for example, at a time when it had no principal, building, or staff, had over 2,000 applications for the first 630 seats. Approximately two thousand teachers applied for the first 40 teaching positions. When the students were selected by lottery, the result was the city's most

diverse school by race, ethnicity, and income—without any racial controls or quotas. No school looked more like the city of Boston. Other charter schools had similar results.

This result is significant in the charter school policy debate, because it empirically addresses a central concern of charter school opponents. They had speculated that the new schools would "cream" off a subset of the majority school system's population, consigning minority children, the poor, or the difficult-to-educate to even worse schools. The speculation proved wrong on two points.

First, the management of the new schools placed a high priority on getting the word out to all neighborhoods, by leafleting social service providers and welfare offices, and in one instance, advertising on the local Hispanic radio station. The prospect of a high-quality public education was just as alluring to low-income parents as it was to better-off parents—perhaps more so, as they had fewer alternatives. The result of this affirmative recruiting effort was a school that attracted and enrolled students from all the city's communities and all levels of educational attainment.

Second, the majority school system has not sat by passively in the face of the new competition. Instead, it has undertaken what may amount to bold reforms if its own. In Boston, the school committee and the city's new mayor recruited a nationally recognized superintendent, and the mayor announced that he was making the turn-around of the city's schools a top priority; if he failed, he told voters, he should not be returned to office. Furthermore, the school system launched its first "pilot" schools, the leaders of which were provided new freedoms to recruit teachers from within and outside the system without regard to seniority.

E. Michigan

Despite a rocky road, Michigan has launched one of the most active charter school reform initiatives of any state. Enacted in December 1993, the Michigan statute was declared invalid by a state judge in November 1994. Just a few months into the school year, the first Michigan charter schools were left stranded with no funding. Some schools relied on the personal resources of the founders to survive, while others became "alternative" public schools in local school systems. In January 1995, the state legislature enacted a new statute reauthorizing charter schools (described as "public school academies" in Michigan law), that addressed the court's objections.

Just about any individual or type of entity is permitted to apply to establish a charter school, including private businesses or private entities.[39] Charters may be granted by public universities, community colleges, intermediate districts, or local school districts. Charter schools are uniformly established as independent legal entities. Local collective-bargaining agreements do not apply unless the charter is granted by a local school district, in which case all such requirements are mandatory provisions in the charter "contract."

[39] The only types of applicants that are prohibited are religious organizations or churches.

Case Example #6: Boston Renaissance Charter School

In 1995–96, its first academic year, the Boston Renaissance Charter School enrolled 630 students in its primary and elementary academies,[40] spanning kindergarten through fifth grade. The school was the brainchild of four co-founders, including Robert Gaudet, a Boston education activist and parent of a Boston public school's student. The educational program is managed by The Edison Project, a for-profit corporation. The school offers a rigorous academic education, having a school day from 8:00 am to 3:00 pm, and an after-school program from 3:00 to 6:00 pm. Edison has developed detailed academic standards for each academy and has selected the research-based curricula, including Success for All, Reading Recovery, and Everyday Learning, a math program developed at the University of Chicago. In total, the Edison Project invested $249,369 in instructional resources for the school.

Obtaining an appropriate facility and complying with the state's special education law were the major hurdles faced in launching the school, according to the founders and headmaster. The relatively large size of the school made the challenge of finding a suitable site especially daunting for Renaissance; fortunately, Gov.William Weld and his staff were highly supportive of the school. The state leased the mothballed building formerly housing the Boston campus of the University of Massachusetts and helped the school obtain a loan from a quasi-public economic development agency, the Massachusetts Land Bank, to convert the property.

The school addressed capital needs in three ways: the Land Bank loan, $720,000 in private fundraising by the school, and Edison's investment in the school (including Edison's hiring of principals and staff in advance of school opening, and its private financing of the curriculum and school design).

Unlike other charter schools, major educational decisions were made not by school staff, but rather in advance, by Edison's central staff. Edison provided the headmaster flexibility in implementing the program, as well as resources to address problems that arose as the design was put into practice. It insisted, however, that the integrity of the design be retained.

Renaissance engaged Advantage Schools to implement financial systems and internal controls, avoid a first-year deficit, obtain financing for the planned expansion of the school, and replace Renaissance's interim financing with a first-in-the-nation charter school bond offering.

While comparative data on academic achievement is not yet available, other indicators suggest a positive beginning for Renaissance. For example, the large number of student applications for the limited number of available slots necessitated a lengthy waiting list. Also, 95 to 98 percent of all parents participated in parent-teacher conferences, and over 200 parents volunteered time to the school. In fall 1996, the school opened the junior academy as planned, enrolling grades six, seven, and eight, for a total school population of 1,054 students. Eventually, the school will add senior and collegiate academies, enrolling students through grade twelve.

A substantial number and variety of charter schools has resulted under the Michigan statute so far. Seventy-two charter schools were operating as of fall 1996. Of those schools operating by April 1996, nearly half were formerly private schools that had converted to charter schools (though the emphasis on converting private schools shifted after the first year to a greater focus on new schools). While Michigan charter schools are significantly smaller than regular public schools (averaging 129 vs. 460 pupils), the schools are quite diverse and fairly evenly divided between elementary, middle, and high schools. Of those operating as of April 1996, two focused on youth offenders, while five were trade schools.[41]

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[40] The Edison school design groups grades K-2 into a "primary academy" and grades 3-5 into an "elementary academy." Teachers remain with their students until a student cohort completes all of the grades in an academy.

[41] Central Michigan University, *Update: Michigan's Charter School Initiative*, April 4, 1996.

Case Example #7: City on a Hill

City on a Hill, a charter high school located in Boston and serving 65 students, received a charter from the state's secretary of education in 1994. It focuses on civic education and describes its mission as "dedicated to rekindling the passion for democracy, the commitment to public service, the habits of hard work, and the hunger for learning in urban youth." The school opened in fall 1995 to ninth and tenth graders.

Founded by Sara Kass and Ann Connolly Tolkoff, two former teachers from the Chelsea, Massachusetts public schools, City on a Hill combines a liberal arts curriculum based largely on a "progressive" pedagogy with a program of community service and civic participation. The founders also believe that it is important for them and the staff to be truthful about how students perform and to realize that a school cannot work miracles. The ultimate goal for them is to make sure that a diploma signifies something real.

Finding a suitable space and building the systems to run the school were the primary hurdles, according to Kass. The former was resolved by leasing space already configured for classrooms in Boston's vast YMCA building. The second problem was especially challenging for a very small school with few staff. Also, in addition to these two problems, like Renaissance's founders and administration, the founders of City on a Hill believed that meeting the needs of special-education students posed a particularly difficult problem, due to the state's district-based (rather than school-based) funding of special-needs programs.

Unlike schools that contract with a private education provider, City on a Hill did not have access to public or private capital sources. The school was exceptionally successful in raising private gifts, however, with over $600,000 received by June 1996 from individuals, foundations, and area corporations.

City on a Hill's education program, combining elements of "Great Books," the concept of the town meeting, and public service, was developed by the founders and was based on their own classroom experiences and observations of best practices. Along with its core curriculum taught by the school's teachers, City on a Hill has contracted or entered into partnerships with other entities to provide physical education, foreign language instruction, and counseling services. All students are required to spend two weeks at internships and complete end-of-the-year projects that are assessed by volunteers from the Boston community. Also, in addition to its regular hours, the school is open on Saturdays for students seeking additional help with their school work and for meetings with students' parents.

While it is too soon to measure student academic gains, the founders are encouraged by other early indicators. Student attendance is unusually high for an urban public school, averaging 95 to 97 percent over the year. While the principal says that students in urban public schools are notorious for not doing homework, City on a Hill students recently crowded the school's computer room writing papers until nine or ten at night. And a new civility has emerged among the tight-knit school community; it is common to see students greet and shake hands with visiting adults.

An analysis of the student body at most Michigan charter schools found that charter schools were serving a substantially more diverse population than regular public schools (see Table 2).

Table 2: Racial Diversity in Michigan Charter and Public Schools

	Charter Schools	Public Schools
White	46.5%	77.8%
Black	49.6%	17.1%
Hispanic	2.7%	2.6%
Other	1.2%	2.7%

Case Example #8: Sabis International Charter School

Located in Springfield, Massachusetts, the Sabis International Charter School describes itself as a college preparatory school. The founding board reflects a partnership between Springfield Superintendent Peter Negroni and the Sabis Network of Schools. Sabis is an association of 14 international schools in five countries, started in 1886 in Beirut, Lebanon, serving over 10,000 students. As of February 1997, the Sabis school in Springfield enrolled 600 students in grades kindergarten through eight.

The school faced considerable opposition to opening from the Springfield teachers union and other education special-interest groups. The school prevailed in large measure because of the backing of the Springfield superintendent (the only Massachusetts urban superintendent to publicly back charter schools), the mayor, and certain city council and school committee members.

The school's educational design, which emphasizes math and English, has been refined by Sabis over more than one hundred years. Under the school's "point system," the curriculum is narrowed to certain key concepts that are introduced one "point" at a time, and the class moves forward only when nearly all of the students have mastered the concept. Sabis emphasizes larger classes, continual assessment of students, and strong discipline. Sabis also provides incentives for excellence to both its teachers and students, in the form of higher salaries and prizes or scholarships, respectively.

The school's principal challenges prior to opening were countering the misinformation in the community about charter schools, promulgated by teachers union officials, and dealing with the timing of capitation payments from the state. The school's founders worked to provide the community accurate information about the new school. The second problem—the timing of state funding—is common to Massachusetts charter schools. Specifically, payment arrives at the end of the quarter, after the school has incurred the cost of operating the school for the period. Sabis's financial backing allowed the school to overcome this problem and the challenge of accessing capital in general.

Unlike other large charter schools, Sabis did not have to identify and improve a suitable site; the superintendent offered a building. But Sabis's staff did have to engage in a lengthy political fight to obtain and secure the votes of both the school committee and the city council to lease the building and to convert it from its former use as a regular public school.

The initial results are encouraging: when the Iowa Test of Basic Skills was administered in grades two through seven, students on average posted between thirteen and eighteen months of academic gains (depending on the grade), versus a typical gain of seven months. After a year and a half, the school has a waiting list of approximately 700 students.

Along with running a new school in Somerville, Massachusetts, for which Sabis has recently received a charter, it is expanding its Springfield school through grade twelve by adding a new grade each year. Eventually, the plan is to enroll 1,250 students in Springfield.

Further, 65 percent of students in charter schools had formerly been in regular public schools, 23 percent in nonpublic schools, and 12 percent in kindergarten.[42]

The Michigan statute has been one of the most successful in the country at authorizing a substantial number of charter schools, due in large part to Central Michigan University. Soon after the law was passed, the governing board of CMU—alone among Michigan universities—took a leadership role in the charter school movement in the state. Despite pressure by some local districts against the university, notes charter schools director Robert Mills, "the CMU board has simply taken a position that they won't allow

[42] Central Michigan University, *Update: Michigan's Charter School Initiative.*

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themselves to be intimidated."[43] The great majority of charter schools in Michigan have been sponsored by CMU, while only three of the fourteen other public universities in the state had sponsored schools in operation. Interest is slowly building at other universities, but CMU remains the mainstay of the charter movement in Michigan.

Opponents were successful, however, in incorporating provisions in the revised charter law that are likely to slow the increase in the number of new charter schools in Michigan. Compared to the current rate of nearly 40 new schools each year, the statewide cap of 85 schools in 1996 will only be increased by 15 in 1997, 25 in 1998, and 25 in 1999. In addition, a provision aimed at CMU was inserted that limits the number of charter schools that may be chartered by any one public university to no more than half of the total number.

This limitation, however, is unlikely to severely impact CMU's chartering ability over the next few years. On December 6, 1996, CMU revoked 14 charters that it had previously granted to groups (many of which had proven unable to use them to open schools). The revocation of these charters has provided CMU with renewed capacity and will allow it to continue in its leading role on the front line of education reform in the state.

Since the beginning of the charter movement in Michigan, such schools have benefited from critical support provided by Michigan Gov. John Engler. After the first statute was struck down, Gov. Engler was instrumental in pushing through the legislature the revisions that kept charters alive. Gov. Engler also encouraged authorized entities—including public universities, which had previously not viewed elementary and secondary education as a central responsibility—to take on the new role of awarding charters.

Under the revised statute prompted by state court decisions, numerous new provisions constrain charter schools. Charter schools are defined as government agencies. As such, they are subjected to many regulations that apply to schools administered by districts or to government agencies, including: bidding procedures for construction and procurement of supplies; union wage rates on building projects; regulations for continuing education for administrators and professional development days for teachers; open-meeting requirements; and several dozen other statutes and regulations.

F. Minnesota

The first charter statute in the nation when it was enacted in 1991, Minnesota's charter law followed a history of education reforms in the state aimed at allowing parents a range of choices in pursuing the best education for their children. Prior to the charter statute, Minnesota had enacted statewide open enrollment among regular public schools, a system of alternative learning centers for students not succeeding in regular schools, and a program permitting high school juniors and seniors to take courses at public, private, or religious postsecondary institutions.

The charter statute authorizes "outcome-based schools" that may be established as nonprofit corporations or teacher cooperatives, funded on a per student basis according to the state-established funding formula.[44] A majority of the governing board of each charter school must be composed of teachers at the school. Charters, renewable every three years, constitute agreements to meet outcomes agreed to by the school and the chartering entity.

[43] Robert Mills, personal communication, May 29, 1996.

[44] This includes state and local funding up to the foundation level established by the formula, but does not include additional local levies, which can be substantial in some districts.

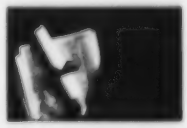
Case Example #9: Horizons Academy

Horizons Academy has existed for eighteen years as an alternative public school serving troubled students in grades nine through twelve. While some community outreach was required as part of the charter application process, Horizons was sponsored by its local school board on the basis of its long-term relationship with the district. Horizons serves a highly fluid population of approximately 200 students at any one time, with an average of 30 students being added and 30 leaving each quarter.

As a converted public school, Horizons was able to minimize up-front capital needs, continuing to use its previous instructional materials and keeping its facility (though paying rent). Because it is district-sponsored, the statute requires Horizons to abide by all existing collective-bargaining agreements, something that the school believes is working because of the unusual commitment of its teachers. The curriculum was refined on the basis of an educational research compendium compiled by the Ingham Intermediate School District in Michigan, though it has not changed dramatically since the time it was a public school. Educators are increasingly taking advantage of the internet, however, to seek out new educational ideas they can use.

Horizons informally estimates that it is successful with approximately 50 percent of the students that come to it, while others need residential placement or some other type of specialized environment.[45] Future plans include further expansion of the school's use of technology, better writing instruction, and a stronger emphasis on environmental study and world citizenship. Competitive pressure due to nearby charter schools being sponsored by Grand Valley University has also encouraged the local district to consider sponsoring additional schools of choice, which Horizons strongly supports.[46]

Case Example #10: Excel Charter School



Developed by Education Development Corporation (EDC), a for-profit management corporation, Excel is only the first of a planned chain of charter schools administered by the same company. EDC was founded by an investment company, with the aim of "Creating options and opportunities for children through excellence in education." With the first charter contract not approved until June 1995, EDC put up the capital and found a site, gutted it, and renovated it in time for classes to start that September.[47]

The school started with approximately 170 students and increased its enrollment to 313 in fall 1996. The education design changed from an early plan to use the curriculum of an existing school in Wesley, Texas, to commercial products that include the University of Chicago mathematics program, Open Court instructional materials for language arts, and the Core Knowledge curriculum in social studies. Parents strongly support the school's emphasis on basic moral education.

Success at Excel has encouraged EDC to move ahead with ambitious plans for expansion. EDC received approval from Grand Valley University, which approved the charter for Excel, for three additional charter schools starting in fall 1996. EDC has also applied for even more charters to open in fall 1997 and may expand outside the state in future years.

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[45] This does not *necessarily* mean special educational, though that is typically the case.

[46] Horizon, personal communication, May 29, 1996.

[47] Tina Quinn, personal communication, May 29, 1996.

A number of important amendments have been made to the law since it was enacted. The number of charter schools authorized has been expanded to forty from the original eight, fewer than half the number permitted are currently chartered. The entities permitted to grant charters have also changed. Originally, any school district was authorized to grant a charter to a school anywhere in the state. When a rural district granted a charter to a school in Minneapolis, however, this provision was changed to limit districts to granting charters only in their geographic boundaries. If rejected, applicants may appeal to the state board if they received positive votes from at least two local board members. State universities have also been added to the list of potential chartering entities.

Based on the experience of other states, it appears that two key aspects of the statute have served to limit substantially both the number and diversity of charter schools in Minnesota. First, despite various attempts at improvement, the charter approval process suffers from excessive politicization and is not focused on creating new opportunities to provide quality education. With only a few exceptions, most districts continue to view charters with suspicion, if not hostility. Regular public schools are still viewed by most school boards as their primary responsibility, and charters as competition. Successful applicants have had to spend a great deal of time in negotiations with recalcitrant districts, sometimes resulting in potentially damaging concessions. One school has had to make cash payments equaling tens of thousands of dollars each year to the local district in order to hold the district financially harmless for any students that choose the charter school. Notably, one larger district approved five charters, but even it has tended to view such schools as small, alternative programs that are not intended to serve the mainstream population and compete directly with regular public schools.

So far, the alternative chartering procedures have not functioned effectively to allow a significant number of new schools to start.

The state-level appeal is limited by the state board's deference to local decision-making, while it still requires applicants to spend time applying to unresponsive local entities and winning over at least two local board members. Public universities have not used their authority to approve any charters to date, and there appears to be nothing encouraging them to change this stance any time soon. One university considering granting a charter backed off after the local district and teachers union threatened that its student teachers would no longer be allowed in the local schools. On their own, universities in Minnesota seem to have concluded that chartering schools is not sufficiently important to their missions to face the political controversy that would inevitably result.

Further, the statutory requirement that teachers at the school constitute a majority of the governing board appears to have severely limited the field of potential applicants. With a few exceptions, it seems to have inhibited other grassroots groups, especially parents (which have been a driving force for the charter movement in other states), from establishing charter schools.

Unlike other states that don't have such a requirement, no major institutional providers, such as established community organizations or private companies, have come forward to create schools. Charter schools in Minnesota have tended to be smaller and have been developed by a smaller segment of the community (i.e., individual educators), when compared to other states. Further, a prohibition on the use of public funds to acquire land or school buildings has limited charter schools' options without accomplishing any clear public purpose. These hurdles have created a demanding environment for Minnesota charter schools.

Yet an evaluation conducted for the state board of education has found promising, if not yet definitive, results for Minnesota charter schools. The study, which examined the 16 charter schools operating prior to fall 1996, found that the schools serve a much higher proportion of minority and disadvantaged students than other public schools: 25 percent of charter students have a disability versus 15 percent in the host district; 47 percent of charter students meet federal poverty criteria for free or reduced lunch versus 29 percent in the host district; and 10 percent of charter students have limited English proficiency versus 5 percent in the host district. The study also found that the charter schools are doing a better job satisfying parents when compared to public schools nationally: 90 percent of Minnesota charter school parents award their school a grade of "A" or "B" versus 65 percent of parents nationwide.[48]

Case Example #11: Minnesota New Country School

The New Country School was established to implement an organizational—as well as an educational—vision, notes co-founder John Schultz. Planned by a regional group of individuals that came together in spring 1992, the school was designed to establish a new model for schooling, where staff would be motivated by "true ownership" instead of oversight under the traditional employer-employee relationship. Two members of the planning group were familiar with the LeSueur school district and believed it would be receptive to the proposal.[49]

The school, which opened its doors in fall 1994, is located in three storefronts on Main Street in downtown LeSueur. The educational program is year-round, with an emphasis on student-directed learning that includes projects on the school's numerous computers (one for every two students). Explicit student outcomes and close interaction with teachers help to establish the framework.[50] Strong community involvement is also encouraged, with students demonstrating or explaining their work at "community presentation nights" open to anyone that is interested. While the curriculum was based on the educational vision of the founders, a first-year review found that some students were overwhelmed by the degree of freedom while others thrived. School staff acknowledge that the school is not for all types of students, and they note that they have adapted the program somewhat to provide more direction for some students.[51]

The management of all of the educational, and most administrative, functions has been subcontracted to the for-profit EdVisions cooperative (which includes all of the staff of the school). The school board conducts policy oversight and evaluation. Due to a requirement in the statute, the governing board of the charter schools includes most of the teachers in the cooperative. Some have questioned whether this dual responsibility constitutes a conflict of interest (although, so far, there is no evidence that it has negatively affected the school).

The first store-front facility was obtained through a favorable arrangement with a local bank, in part on the basis of personal trust. Spending on computers and other capital needs has been financed in part through private grants, which may not exist in future years, as well as through loans. In spring 1996, the school began preparing for the renewal of its three-year charter. It hoped to improve on portions of the original charter that it accepted in order to receive local district approval. It expects that its record so far and the new possibility of appeal to the state board are likely to enhance its leverage. While the cooperative would like to expand its activities, it does not envision expanding the 85-student school beyond a maximum of 125 in order to maintain the tight-knit atmosphere.[52]

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[48] Patricia, Seppanen, et al., *Minnesota Charter Schools Evaluation: Interim Report*, University of Minnesota, December 1996.

[49] Co-Founder John Schultz, personal communication, June 5, 1996.

[50] Minnesota New Country School, Inc., *A Design Plan Overview*, 1996.

[51] Mary Jane Smetanka, "New Country Fills Gaps on Main St. and in Education," *The Star Tribune*, April 26, 1996, p.1A.

[52] John Schultz, personal communication, June 5, 1996.

The political and policy climate also appears to be improving for Minnesota charter schools. While state leaders do not appear to have been hostile in the past, neither has there been a sense that charter schools were a central aspect of their plans for education reform. In early 1997, Gov. Arne Carlson proposed several amendments to strengthen charter schools, including raising their per pupil funding almost to the level of regular public schools, enhancing their autonomy, lifting the cap on the number of schools, and removing local school boards' veto power over proposed schools. In an atmosphere of renewed bipartisanship, the legislature appears open to enact substantial improvements to the charter statute.

Case Example #12: City Academy

The first charter school in the nation, City Academy is also one of the few to have been through a process of renewing its three-year charter. It was established to serve those who had "dropped out or been pushed out" of the regular public schools, according to co-founder Milo Cutter. The charter path was chosen after an attempt to create an alternative school through a contract with the St. Paul school district became mired in red tape. The original approval process was difficult, with critics charging that the charter school would be elitist and would be damaging to regular schools. However, since approving the charter, the St. Paul district has assisted the school in dealing with various state agencies and their requirements. The school currently enrolls 60 students, up from its original 30 students but down from a high of 70. (With a current waiting list of 80, however, the decrease was voluntary.)

The educational program, inspired by the writings of Ted Sizer, Ira Glasser, and others, sets expectations for individual students based on their skills at the time they arrive. A low, six to one ratio of students-to-teachers permits close personal relations and teacher awareness of student progress. An average of 90 percent of graduates qualify for higher education, with most going on to enroll in postsecondary institutions. As a result of its success, as well as the increasing familiarity with charter schools in the state, renewal of the charter proceeded with far less controversy than the original approval.

The school relies on Milo Cutter's 15 years of small-business experience, though it has also contracted with the same educational finance expert used by the St. Paul district. Start-up costs were addressed through competitive state grants and charitable support from Northern States Power Company (a two-year loan, later forgiven). With the mayor's support, the school found space in the Wilder Recreation Center, which it uses during non-program hours. Students range in age from 15 to 21. A majority are minorities and are from families with incomes below the poverty level. Numerous partnerships, with organizations ranging from Habitat for Humanity to the Science Museum, permit learning to occur off-site.

Unlike other independent charter schools, the school staff are members of the Michigan Education Association (MEA) even though they do not engage in collective bargaining. In addition to the membership benefits, City Academy joined in order to "keep the lines of communication open."[53] While the educators of City Academy have become internal advocates for charter schools at state and national NEA forums, that has not stopped the state MEA from continuing to lobby against charter schools in the state legislature.

[53] Co-Founder Milo J. Cutter, personal communication, June 1996.

G. Other Statutes

The five states profiled in this report were selected because they met minimum standards of effectiveness and because they illustrate important issues relating to charter schools. Most important, all had been in force long enough to evaluate the success of schools for at least one full year. (One state not profiled, Colorado, has also had a charter statute in effect long enough to demonstrate effectiveness in permitting the establishment of over 30 operating charter schools since 1993.) Other states not profiled may have recently passed statutes containing effective features, though it is too early for conclusive—or in some cases any—empirical evidence. Statutes passed in Texas and Delaware in 1995 have already resulted in charter approvals, while a New Jersey statute passed late in the year remains a question mark. In 1996, potentially effective statutes were enacted by Congress (for the District of Columbia) and by North Carolina, while Connecticut and Illinois passed statutes likely to be effective in authorizing only a limited number of charter schools.

Part 5

The Effect of Charter Reforms

A. Charter Innovators Reinventing Public Education

With the pace of charter school legislative activity showing no signs of slowing, it is now clear that the charter movement is here to stay. The evolving features of charter statutes and the resulting diverse charter pioneers are forcing a redefinition of public education. Elements of consumer choice and other market principles have led some to question whether charters are leading to the end of public education. So far, however, even the boldest and most far-reaching charter reforms represent more of a refinement and updating, rather than a wholesale repudiation, of the basic concept of public education.

Charter schools satisfy the core principles of public education: they are open to the public, supported through public funding, and accountable to the public. Perhaps the most central characteristic of any public enterprise is the first principle: open service to the public. By analogy, a hotel is legally considered a "public accommodation," even though the building is owned and operated by a private entity, because it is understood to be open to the general public. Unlike a private association, a public accommodation is not permitted to exclude individuals due to such characteristics as race or religion.

Second, public education has traditionally had a central goal of providing educational opportunity for students from families of limited means. Thus, charter schools continue to rely on public funding for core-operating expenses and are barred from charging tuition. With public funding, however, comes a third principle: public accountability for fiscal propriety and educational results. These two features, in fact, represent the essential features of public education as understood by most Americans.

The key difference between charter schools and regular public schools is that the former allow a range of private and public providers to satisfy these core principles and provide public education through new and diverse means, while the latter limit their delivery mechanism to local government agencies managed by school boards. Charter applicants must be able to demonstrate that they have a plan to provide quality education free of charge to the public, and they must agree to be held accountable by a public entity for their performance before they become eligible to receive public dollars.

But do charter schools represent an end point in the evolution of the education system or just one step toward a full voucher system, or even complete government disentanglement from elementary and secondary education? Some supporters of charter schools view them as a first step toward extending the broadest possible form of school choice, including fully private schools. But many others who support bold charter school reforms do not support private school choice. Instead, they believe that, as long as the

principles of public education are maintained, a modernized, dynamic, and consumer-friendly public system is likely to minimize interest in private schools. Regardless of one's position on ultimate goals, however, it is a key strength of the charter movement that such differences have not discouraged alliances in support of strong charter reforms. In fact, such alliances have proven to be the pattern rather than the exception in enacting most charter school reforms.

Charter schools also appear to *enhance* accountability. Research on institutional effectiveness[54] has shown that governmental bureaucracies, such as school districts, are not effective in holding schools accountable through direct management and regulation. In independent charter schools, the most important day-to-day guarantors of accountability are parents, many of whom continuously monitor quality and all of whom are free to depart at any time—taking with them their share of public funds. But the increase in *parental* accountability occurs simultaneously with an increase in *public* accountability.

By renouncing bureaucratic management and regulation in favor of charters, public authorities are able to implement accountability based on student learning. Instead of focusing the attention of schools on documenting their compliance with shifting mandates, such as instructional techniques they must use or the selection and management of staff, the renewal required of every charter after a defined period of time establishes a regular process for focusing charter schools on their central mission: results. If students do not progress adequately and a charter is not renewed, real consequences unimaginable in regular public schools follow: school management and staff lose their jobs. It is no accident that Minnesota's charter statute, the first in the nation, refers to charter schools as "outcome-based schools."

B. What We Have Learned About The Different Charter Models

The different charter models are perhaps the clearest evidence so far of the potential of the charter movement to reinvent public education to make it more dynamic, efficient, and responsive to the needs and interests of consumers. Each of the models possesses its own inherent character, advantages, and disadvantages, all of which will impact their potential in meeting the needs of students and their families.

While it is too early to know with any certainty which of the models will prove most effective in doing so, we can draw some preliminary conclusions based on the strategy and resources typically used by each model in surmounting the hurdles of establishing and operating charter schools. Such hurdles include: developing a quality charter application; designing and refining a high-quality curriculum; securing the necessary start-up capital; obtaining business and administrative expertise. Also relevant are plans for future expansion in the number of school sites and students served. Such plans, if they are successful, are likely to eventually increase both the number and the impact of these models.

The evidence so far relating to the different models of charter schools suggests the following:

- Established grassroots organizations/individuals have demonstrated an ability to raise modest amounts of capital from foundations, while new grassroots organizations find this a major obstacle. Even organizations with a track record, however, have had to settle for facilities that would be viewed as minimal relative to regular public schools.

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[54] See, for example, John E. Chubb and Terry M. Moe, *Politics, Markets, and America's Schools*. The Brookings Institution, 1990.

- Business-operated charter schools are better positioned to raise large amounts of up-front capital in order to establish larger, more physically attractive facilities. They have also been able to invest more, in some cases substantially more, in technology, teacher training, and research and development.

- Business-operated charters are far more likely to be a part of larger organizations (or plan to be part of larger organizations) consisting of groups of charter schools. Any financial and educational benefits of such larger organizations would constitute a key, if still unproven, potential advantage of this model. The loss of a tight-knit community or "family" culture common to many charter schools is a key potential disadvantage, though The Edison Project, for example, has taken steps aimed at minimizing any such downside (i.e., through an "academy," school-within-a-school structure).

- The teacher cooperative model promises to offer unique professional rewards, but so far teachers have shown little interest in such an approach. Based on the experience to date, teacher cooperatives appear unlikely to become a common charter model. In Minnesota, where the statute encourages such an arrangement while discouraging competition from larger institutional providers, only one teacher cooperative has been established.

- Among the different models, the home schooling/distance learning model has the potential to take advantage of state-of-the-art information technology to implement the most far-reaching changes in the delivery of education. This model also appears to address the fast-growing consumer interest in home instruction.

- Given the enormous potential, the great majority of regular public schools have shown little interest in converting into charter schools. The successes of notable exceptions, such as the Vaughn Next Century Learning Center in California, highlight the fact that few of the tens of thousands of currently eligible schools have sought charter status. One possible explanation is that the typical, bureaucratic assignment of school staff may have severely limited the potential of such schools to agree on the type of bold and cohesive plan for reform that constitutes a charter application.

Idiosyncratic provisions in charter statutes—sometimes explicit limits—constrain the potential of some models. The model affected most severely by such restrictions has been the home schooling/distance learning model, which represents the boldest change from the current delivery of public education and has so far been limited to California. Charter statutes with fewer characteristics of effective charter policies have also had particularly negative consequences for other models—such as business-operated schools—that represent the greatest departure from the status quo and thus face the greatest political hurdles.

Part 6

The Features of Effective Charter Reform Policies

Five years of experience with 26 charter statutes and at least 475 charter schools enable us to draw informed lessons about the design and implementation of effective charter-based reforms. Based on these lessons, we make recommendations in both the policy and political arenas for policymakers interested in charter schools.

A. Charter Policy Framework

Though commonly described using only the "charter" term, the basic policy framework of charter reforms may best be understood as consisting of two distinct components:

- a *charter* guaranteeing independence; and
- a *contract* establishing performance-based outcomes for accountability.

In practice, these components are merged into a single policy instrument in all of the five states profiled in this report, as well as in other states with charter laws. But it is useful to consider each separately in order to understand their individual implications as well as how the two interact.

The charter guarantees the school's operational independence as an entity in its own right. Though some charter statutes fall short, the charter principle calls for true, legal independence, since a lower level of autonomy encourages confusion and, in any case, could already be granted by school districts without such statutes. In addition, the fact that school districts have not already given schools such leeway (and usually choose not to do so even when encouraged in charter legislation), explains why charter reforms are necessary in the first place. Further, the school does not simply become an arm of the chartering authority, instead maintaining its operational independence. The charter also defines important limits of that independence, such as prohibiting the school from charging tuition or requiring admission policies that are open to all.

A performance-based contract or agreement forms the second policy component. The agreement lays out performance criteria that protect the public interest, ensuring that public funds achieve their purpose and are accounted for. Consistent with the independent status granted by the charter component, the actual performance agreement avoids prescribing in detail the manner in which the service—public education—

is to be provided. Contractual obligations identify education results to be evaluated at the end of the agreement. Other terms, which are kept to a minimum in the contract, might address such things as fiscal malfeasance, actions necessary to arrange funding transfers and public information to assist parents in choosing among schools. In cases of fraud or gross violations of the contract, a chartering entity is responsible for intervening immediately and may even revoke the agreement and close down the school.

Because both of these policy components are implemented through a single charter mechanism, the terms "charter" and "agreement" are sometimes used interchangeably in state authorizing statutes (though it is preferable for the term "charter" to be defined clearly in a statute as addressing both purposes). Each function, however, is important and distinct, capturing the dual nature of charter schools. *Thus, a "charter" identifies an independent, accountable entity eligible to receive public funds for the purpose of providing public education.*

B. Legal Status of Charter Schools

No single approach establishes the legal status of charter schools, but if we consider the range of state reform statutes and policies, important common themes emerge. A charter school may best be understood as a provider of public education operating within the charter policy framework (as these two concepts have been analyzed and defined in this study).

Thus, a key issue in designing or evaluating any charter statute is the legal status of authorized charter schools. The most-basic starting test is whether authorized charter schools constitute independent legal entities separate from the regional school district. Laws that do not provide independence provide the appearance of reform without enacting true structural changes. Even without such laws, which also typically limit charter sponsorship to the local school board, school districts have always possessed the authority to start schools or educational programs that remain a part of them. Establishing detailed groundrules for what school districts have always been able to do is more akin to regulating internal district affairs than enacting true, charter-based reforms.

State charter statutes that meet minimum empirical standards of effectiveness in permitting the creation of charter schools but that don't adequately address legal independence, such as California and Colorado, have resulted in much confusion as well as practical difficulties. In California, autonomy is negotiated with the local board deciding to approve a charter petition, with the result that very few of the charter schools have been able to win such freedom. California charter schools that remain part of the local district continue to be bound by burdensome collective-bargaining provisions, and often district contracting procedures and other aspects of the local district bureaucracy as well. Colorado charter schools remain part of the local district while gaining an ambiguous autonomy. In addition to the limits imposed on the schools, even supportive administrators in Colorado have noted some of the practical difficulties that this structure creates for the district, such as legal liability for a semi-autonomous charter school's actions.

While many charter advocates have pointed to the importance of legal independence for charter schools, relatively little attention has been paid to the issue of what that legal status should be. Several states that grant legal independence to charter schools—including Arizona, Massachusetts and Michigan—define charter schools as government agencies like regular public schools. At the same time, these three states permit a broad range of individuals and groups, including private for-profit and nonprofit corporations, to apply to establish charter schools. The resulting inconsistency may eventually result in legal and other

types of confusion regarding the status of charter schools in these jurisdictions. So far, the greater difficulty resulting from such provisions has been the application of numerous state laws and regulations that bind the new charter schools. In Michigan, for example, over 40 state regulations applicable to government agencies, ranging from "whistle-blower" protections to expensive "prevailing-wage" contract mandates are applicable to charter schools because the legislation defines them as government agencies.

While such requirements may or may not be ideally suited for local district bureaucracies, most are inappropriate for charter schools. One might even ask what the point is of attempting to withdraw the exclusive right of old entities to offer public education if the new entities, including private businesses, are directed to offer it under constraints similar to the old ones. Charter schools shift the focus of public education away from institutional constraints and towards results for students. In order to seek out superior ways of providing public education, providers ought to be able to take full advantage of their potential to offer quality service. In the charter policy framework, accountability is maintained through the performance-based contract with a governmental chartering entity.

Other states have demonstrated that there is no need to establish charter schools as government agencies or regulate them as such. Charter schools in Minnesota are required to establish themselves as public nonprofit corporations or teacher cooperatives, but are treated "as if" they were school districts only for certain purposes listed in the statute. The federal charter bill for the District of Columbia states that "public charter schools" are simply "publicly funded" schools that comply with the statute, including requirements that the successful charter applicants establish themselves as nonprofit corporations, charge no tuition, and admit students on a random basis. More explicitly, the federal bill notes that charter schools are not D.C. public schools or even part of the D.C. government. Each charter school established in North Carolina is administered as a "private nonprofit corporation." Charter schools in Florida may choose to be either "public" or "private" nonprofit corporations, but in either case must satisfy the requirement of offering education that is free to the public as well as being accountable to a public agency.

In fact, it is unclear whether there are any advantages to defining charter schools as nonprofit corporations. Minnesota's New Country School is providing public education even though it is managed by a teacher cooperative. The Boston Renaissance Charter School is similarly offering public education even though it contracts with The Edison Project for all academic services. In Arizona, state officials have even encouraged interested religious organizations to apply, as long as the schools would be operated in a nonsectarian manner in compliance with state law. Similarly, while a nonprofit structure appears to have some advantages, such as an ability to raise private donations, there is no reason for a state to mandate or endorse any particular legal structure or legal status.

Recommendations regarding the legal status of charter schools:

- *Charter statutes should specify clearly that charter schools constitute separate legal entities, free to reach decisions on their own on crucial features such as collective bargaining/union agreements and curriculum.*
- *Charter schools should not be defined in law as government agencies, nor limited to particular types of legal entities.*

C. Charter School Governance

Apart from prescribing the legal status of charter schools, many authorizing statutes contain idiosyncratic provisions restricting internal school matters such as governance. The most-common provisions addressing governance require some type of governing board (e.g., "board of trustees" or "board of directors"), sometimes even mandating various types of representation that must be present on such boards.

Highly specific mandates can be onerous, substantially limiting interest among potential applicants and the potential of charter reforms. Minnesota's requirement that teachers teaching at the school form at least 51 percent of a charter school's board severely limits outside interest in starting such schools, particularly among institutional applicants such as community organizations or businesses. This narrow view of charter schools also effectively prohibits larger, multi-site organizations from operating charter schools, without any evidence that such larger organizations would do a less-effective job as providers.

But even the basic assumption that such a site-based governing board is necessary appears to be without foundation. Different governance requirements appropriate to different legal structures—including nonprofit corporations, businesses, and cooperatives—are already addressed in existing laws that regulate the establishment of such organizations. Most states that design prescriptive governance arrangements appear to assume that charter schools are likely to be managed in a manner similar to most independent private schools. But we have already seen several charter providers manage several school sites with the aim of achieving educational and financial benefits as a result. Requiring separate governing boards for each school site can muddle lines of authority and accountability for the operation of the schools.[55] Such arrangements unnecessarily burden multi-site providers since they must establish "governing" bodies for each school.

Public authorities gain nothing as a result of such inflexible arrangements. The agency granting the charter could just as easily—in fact more easily—hold accountable the organization directly managing a school rather than overseeing different governing bodies for various sites. Once a state has made the decision to permit a diversity of applicants, as have most states with effective statutes, there is simply no reason to insist on a particular governance structure other than to simply require that providers comply with existing state regulations governing such organizations.

Recommendations regarding provisions on school governance or internal school structure:

- *Charter statutes should not prescribe a single governance structure for all charter schools on the assumption that any particular arrangement is appropriate for all charter schools.*

- *Instead, the internal structure and governance of individual schools should be determined by the charter applicants, as appropriate to their plans and their approach to management.*

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[55] In one case, a deeply divided board, puportedly responsible for overseeing a school that is actually being managed by an organization located in a different state, caused an enormous diversion of time and energy on the part of those actually managing the school.

D. Charter Approvals, Renewals, and Revocations

In addition to legal status and governance of charter schools, the mechanism for approval, renewal, or revocation of charters is the next most important feature of charter statutes. As many charter advocates have noted, restricting chartering authority to local school districts is a fundamental flaw in some charter statutes. With few exceptions, local school districts view the schools they manage (i.e., regular public schools) as "their" schools. Districts resist creation of schools initiated by outsiders that the districts do not control (i.e., due to charter schools). The success of charter schools is viewed as a negative reflection on the abilities of district leaders, rather than as an alternative mechanism for offering public education to district residents. In fact, no statute that limits chartering authority entirely to local school districts has been effective in authorizing substantial numbers of charter schools.

For many of the same reasons, requiring charter applicants to apply first to local districts while limiting further options to an appeals process has also not worked well. Some states that have such a mechanism, including California, Colorado, and (for most of its charter program's existence) Minnesota, have managed to charter a significant number of schools. Even in these states, however, important negative consequences have resulted from this limitation. Charter applicants must sometimes expend scarce time and resources in efforts to persuade unresponsive local districts. State entities are prone to defer to local judgment in such decisions and seldom overturn denials except in unusual circumstances. Many potential applicants, especially less well-connected ones, aren't willing to subject themselves to such an uncertain, and often arbitrary, process.

Further, numerous cases exist of school boards misusing their power to dominate the chartering process in such states by requiring that charter schools—as a condition of approval—pay the district substantial sums of money each year. Often, such arrangements involve the district providing the charter school with assorted administrative services that the charter school could have obtained at less expense and higher quality from other providers. Even in cases where charter schools have been unable to identify any such services that they could possibly use, districts have sometimes required them to then hand over scarce dollars in exchange for charter approval. In Minnesota, even though schools are deemed separate legal entities, one small school was required to make annual payments of tens of thousands of dollars each year to the district as a condition for receiving its charter. In Colorado, where the statute includes a well-intentioned requirement that at least 80 percent of education funds flow to charter schools, many districts have interpreted this to mean that they have a right to 20 percent of charter school funds.

In California, a similarly district-dominated chartering process has resulted in a disproportionately large number of the charters being granted to schools initiated by, or closely aligned with, district authorities. For example, instead of being initiated by qualified outsiders in a competitive process, most of California's home-instruction charters were previously district programs. As charters, however, California home-instruction programs are able to bring in substantial state revenue; such programs must still compete across district lines to provide a service that many parents are seeking.

States that have permitted charter applicants to file directly with chartering entities other than school boards, including Arizona, Michigan, and Massachusetts, have fared better. There are no cases of charter schools being required to pay large financial sums or to give up aspects of their independence in exchange for their existence. The atmosphere among reformers appears to be less bitter and contentious and more focused on the potential of creating innovative learning opportunities.

Not all chartering mechanisms have worked equally well. Moreover, even the same types of chartering entities have been far more effective in some states than in others. For example, universities have not, at least so far, been effective chartering authorities in Minnesota, even though such a mechanism has been the mainstay of the Michigan charter school program. A fundamental goal then, in identifying or creating chartering entities, is to establish at least one chartering entity that views charter schools as a core part of its institutional mission. To the degree possible, the charter approval process should focus on merit and not extraneous political considerations. Local school districts alone fail these tests.

Higher-education institutions, however, also do not normally view charter approvals as central to their mission; in Michigan, the success of the charter schools program is due primarily to the extraordinary role played by one institution in particular, Central Michigan University (CMU). The commitment of the CMU governing board to this program, even in the face of political pressure by local districts and unions that have threatened to bar CMU student teachers, is highly atypical (though CMU's early success has spurred some interest by other Michigan universities in the program). Designating the state board of education as a chartering entity has worked well in Arizona and appears to be working well in Delaware. But the degree to which any approach that relies on existing institutions is effective is likely to vary among states, depending on the particular political, institutional, and other local idiosyncrasies of the entities chosen. The chartering mechanism most likely to be effective, however, is the establishment of a new entity whose focus is charter schools. Among the states profiled in this report, Arizona and Massachusetts have taken such an approach, while the new federal charter statute for the District of Columbia also adopts such a mechanism.

Just as fundamental to the integrity of the approval process, is its protection from arbitrary or narrow political considerations. That means protection from opponents with a self-interest in limiting competition, such as stakeholders in existing district schools. But it can also mean protection from "supporters." For example, one state elected official that has been a vociferous advocate of the concept has inserted electoral calculations into decisions to approve charter applications. Yet a key purpose of charter school reforms is to reduce such extraneous considerations and focus attention on providing quality education for students.

In addition to political insulation of the chartering entity, it may be helpful to establish merit-based criteria for decisions to approve, renew, or revoke charters. Most states have included such criteria, though few have required chartering entities to make decisions on the basis of those criteria. A noteworthy exception is the new legislation in North Carolina, which states that chartering entities that find that applicants have satisfied such conditions "shall" be approved.

The criteria used for charter decisions relating to renewal or revocation may be even more important. Few would tolerate schools being shut down as a result of political considerations. Alternative chartering entities assist charter applicants in trying to avoid such problems, but charter renewals and revocations are entirely up to the entity that approved the charter. RAND analyst Marc Dean Millot notes that, "Autonomy is undermined where approving authorities have the right to terminate a charter school for reasons unrelated to the school's success in carrying out its educational mission."[56] Thus, for renewals and revocations, Millot recommends judicial review. Recent amendments to the federal statute for the District of Columbia, for example, contain such provisions.

[56] Marc Dean Millot, *Autonomy, Accountability, and the Values of Public Education*, RAND Corporation, Institute for Education and Training, December, 1994, draft.

Recommendations regarding the design of procedures for charter approval, renewal, and revocation:

- *Charter statutes should create new state chartering entities, or designate state boards for this purpose, with the aim of establishing chartering entities that view the approval of quality charter schools as central to their core mission. Approvals of charter applications by local boards of education should be reviewed by the state.*
- *To the extent possible, those deciding charter approvals, renewals and revocations should be insulated from direct influence by elected officials.*
- *Charter statutes should establish merit criteria for decisions to approve, renew, or revoke charters.*
- *Charter statutes should require that charter decisions, especially renewals and revocations, be made exclusively on the basis of established merit criteria.*
- *Decisions regarding charter renewal or revocation should be subject to judicial review.*

E. Public Education Funding and Charter Schools

Public education policies that still apply to charter schools, especially public education funding, must be rethought. While state policies governing public education funding vary enormously from state to state, a starting proposition is that funding for charter schools should not flow through (often hostile) local districts. Further, charter provisions that prevent the transfer of funds from local levies (beyond state-mandated foundation levels) to charter schools, as in Minnesota, have the effect of reducing public education spending per student as charter schools attract students not previously served by public education. Even so, total statewide education spending may go up, since such students, including those previously enrolled in private or home schools, increase the total number of students.

Technical changes to public-education funding can be critical as well. Often small schools operating within tight budgetary margins, charters are highly dependent on regular payments that accurately reflect their student enrollment. Most funding formulas have traditionally been operated in a looser fashion, sometimes even lagging a full year in adjusting for changes to enrollment. As a result of charter reforms, Arizona is planning on shifting to "real-time," monthly funding by incorporating modern information technology (an idea that had been discussed for years but which has only now gained urgency). State funding and administration of special education may have to be reexamined as well. Many charter schools are too small to handle the chance costs of disproportionate numbers of severely disabled students.

Recommendations regarding public education funding:

- *Complex policy and technical issues relating to public education financing—including the design of funding formulas and the timing and manner of payments—must be rethought in light of charter reforms.*
- *States should establish direct state funding of charter schools at a level equivalent to the average of all state and local expenditures, including both operating and capital revenues.*
- *States should ensure that charter schools have access to adequate public or private capital for facility and other major up-front costs that require long-term repayment schedules. States can either authorize long-term (15-year) charters that permit typical facility-repayment schedules or establish a process for charter schools to obtain equivalent public loan guarantees or credit enhancements.*

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Part 7

The Political Context of Charter Reforms

It is difficult to overstate the political dimensions of enacting and implementing successful charter reforms. Effective statutes involve rewriting basic groundrules for public education, while innovative charter schools challenge outdated assumptions about a single way to deliver such education. "This is a long-term battle," notes Themba Sadiki of the Harriet Tubman Waldorf School in San Diego. "These are direct hits on the long-term power structure."[57]

Organized groups with a strong stake in the traditional system of public education have engaged in a range of tactics to prevent real change. Some statutes, for example, appear to have been designed to fail, such as the Arkansas statute pushed through the legislature by the Arkansas Education Association. Such efforts seem aimed at deflecting and reducing the pressure for more fundamental reform. At least so far, not a single ineffective charter statute has been improved legislatively to the point where a substantial number of charter schools can result.

In some cases where a statute meets minimal levels of effectiveness, small improvements have been successfully enacted at a later date, including in Minnesota and Arizona. In other states with such statutes, such as California and Massachusetts, key legislative defeats have severely impacted charter programs. In Massachusetts, the inability to raise a low statewide cap of 25 schools has temporarily brought the charter effort to a standstill. Such caps can be particularly difficult to remove, since caps may be reached at about the same time that groups opposed to charters awaken to the full competitive potential of charter schools. On the other hand, the success of new schools under a statute with significant limits on further growth, such as the cap in the Massachusetts law, may engage previously uninvolved or neutral parties to advocate reform.

State or local charter reformers negotiating charter provisions can benefit from the experience of national experts and knowledgeable individuals from other states. Some requests by charter opponents or skeptics that may sound reasonable can have a major adverse impact on the success of charter programs. The National Education Association recently launched a $1.5 million national initiative to improve its understanding of charter reforms while supporting initiatives that conform to workplace rules and assumptions of the current system.

[57] Themba Sadiki, meeting of Charter School Consortium, San Diego Chamber of Commerce, September 20, 1995, cited in: Pamela K. Riley, Pacific Research Institute

Enacting meaningful charter reforms is often a difficult, hard-fought process. Business groups, which often advocate improved educational results, are not always willing to weigh in when it comes to reforms disliked by the education establishment, including meaningful charter reforms. In Washington state, reformers have so far been unsuccessful in pushing the legislature to enact charter school reforms. A far-reaching ballot initiative sponsored by two parents, Jim and Fawn Spady, was defeated on November 5, 1996. A united education establishment heavily out-spent and out-organized the Spadys and won the public relations war, while reform-minded corporate leaders advocate only non-controversial measures, such as published academic goals for students.

Apart from the inequality of resources and organization between the two groups, the ballot inititiative also suffered from a split among charter proponents that further weakened support for the measure. The nature of the "charter" envisioned by the ballot initiative lacked the performance-contract feature typical in most charter statutes, and was instead more akin to a simple license. Some national charter advocates labeled the proposal as more akin to a voucher plan and publicly distanced themselves from it. Ultimately, critics' portrayal of the charter initiative as a disguised, but radical, voucher plan appeared to sway worried voters. As a result, the same proportion of voters cast their ballots against the charter initiative as against the school choice proposal on the same ballot—66 percent opposed both.

Conscious, or even unconscious, practices by reform advocates can limit political success. In some southeastern states, a tradition of consensus politics appears to be making enactment of charter reforms more difficult, since establishment interests are certain to object. Even in other states without such traditions, a political decision to seek endorsement by establishment groups unsurprisingly results in weakened reforms. In New Jersey, a commitment to secure the endorsement of the New Jersey Education Association resulted in a bill with more restrictive provisions than were likely to be required to simply pass a reform bill. As a result of such provisions as guaranteed tenure for teachers, wage restrictions (including a ceiling, as well as floor, for teacher salaries) and other politically driven regulations and prohibitions, it remains an open question whether a substantial number of effective charter schools will result in that state. The president of the New Jersey Education Association has indicated that he expects not more than a handful of charter schools to result over the lifetime of the bill, a far cry from the 135 charter schools explicitly sanctioned in the legislation. In the first year, the state commissioner found that only 17 applications statewide merited approval.

In such a contentious arena, the single most-valuable ingredient for enacting and implementing successful charter reforms has been committed political leadership. Michigan Gov. John Engler has played an essential role in supporting charter applicants as well as encouraging chartering authorities to fulfill their responsibilities. In Colorado, given the significant limitations of the authorizing statute, it is doubtful whether the charter movement could have advanced as far as it has without the ongoing support and advocacy of Gov. Roy Romer. Identifying and engaging such leaders may well be the most important task facing the charter reform movement.

Part 8

Conclusion

The effectiveness of charter schools in improving the educational choices available to students and their parents is dependent on crucial, often highly technical features of the charter statutes. Based on the experience of charter schools over the last five years, seven key features of effective charter statutes can be identified. These include features that:

- Allow charter schools to be fully independent, diverse legal entities and avoid prescriptions for their internal governance or management;
- Provide charter schools with a blanket waiver, including waivers for state statutes and regulations other than ones addresssing performance-based goals and assessments or health, safety, and civil rights, or education and administrative certification requirements;
- Create new independent charter-approving entities, such as a state charter board, or authorize existing state entities, such as a state board of education, to approve charters. Charters approved by local school boards should be subject to state review.
- Protect the integrity of the charter-approving process by insulating charter-approving entities from political influence and requiring that decisions be made on the basis of clear and objective criteria.
- Establish direct state funding of charter schools at a level equivalent to the average of all state and local expenditures, including both operating and capital revenues.
- Ensure that charter schools have access to adequate public or private capital for facility and other major up-front costs that require long-term repayment schedules. Either authorize long-term (15-year) charters that permit typical facility repayment schedules or establish a process for charter schools to obtain equivalent public loan guarantees or credit enhancements.
- Avoid limiting provisions that treat charter schools as "lighthouse" or "experimental" schools rather than as fundamental reform, such as an overall cap on the number of charter schools.

Part 9

Appendix

State	Year Enacted	Statutory Cite	Number of Charters in Operation (1995)	Number of Charters in Operation (11/96)
Arizona	1994	§§15-181-189	69	164
California	1992	CA Education Code §§47600-47616	86	109
Massachusetts	1993	MGL Cha. 71, §89	15	22
Michigan	1993	MI Public Acts 362, 373 [SB 849], 351 [HB 5583]	42	76
Minnesota	1991	§3[120.064], §43[124.248]	16	19
Alaska	1995	Title 14, Ch. 3, Art. 2	0	3
Arkansas	1995	§6-10-116	0	0
Colorado	1992	§§22-30.5-101-114	26	32
Connecticut	1996	Title 10, Ch. 172, §10-264	0	0
District of Columbia	1996	Law 11-135, Act 11-243	0	1
Delaware	1995	Title 14, Ch. 5	0	2
Florida	1996	Title 36, Ch. 623.02	0	6
Georgia	1993	§20-2-255	3	10
Hawaii	1994	HRS §302A-101, HRS §307-3.5	1	2
Illinois	1996	105 ILCS 5/27A-1	0	1
Kansas	1994	Ch. 72, Art. 19	0	0
Louisiana	1995	Title 17, Ch. 42, §3973	0	3
New Hampshire	1995	Title 15, Ch. 194-B	0	0
New Jersey	1996	c. 426, PL 1995	0	0
New Mexico	1993	§§22-8A-1 - 22-8-15	4	5
North Carolina	1996	Article 16, Part 6A, 115C-238.29A-J	0	0
Rhode Island	1995	Title 16, Ch. 77, §16-77-1	0	0
South Carolina	1996	Act 447, HB 4443	0	0
Texas	1995	Ch. 12A, §§12.001-12.118	0	16
Wisconsin	1993	Wis. Laws 16, §118.4	6	9
Wyoming	1995	Title 21, Ch. 3, Art. 2	0	0
TOTALS			269	480

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About the Author

Theodor Rebarber is Vice President for Education at Advantage Schools, Inc., an education management and research company that focuses on charter schools. Previously, he was Legislative Director for U.S. Rep. Steve Gunderson. He drafted the federal education reform legislation for the District of Columbia, including model provisions authorizing charter schools that passed Congress and were signed into law by President Clinton. Prior to that, as Associate Director for Curriculum and Assessment at The Edison Project, Rebarber designed academic standards, assessments, and other aspects of Edison's program. Before that, he was Special Assistant to the Assistant Secretary for Educational Research and Improvement at the U.S. Department of Education. Previously, he was a research associate at the Educational Excellence Network of the Vanderbilt Institute for Public Policy Studies.

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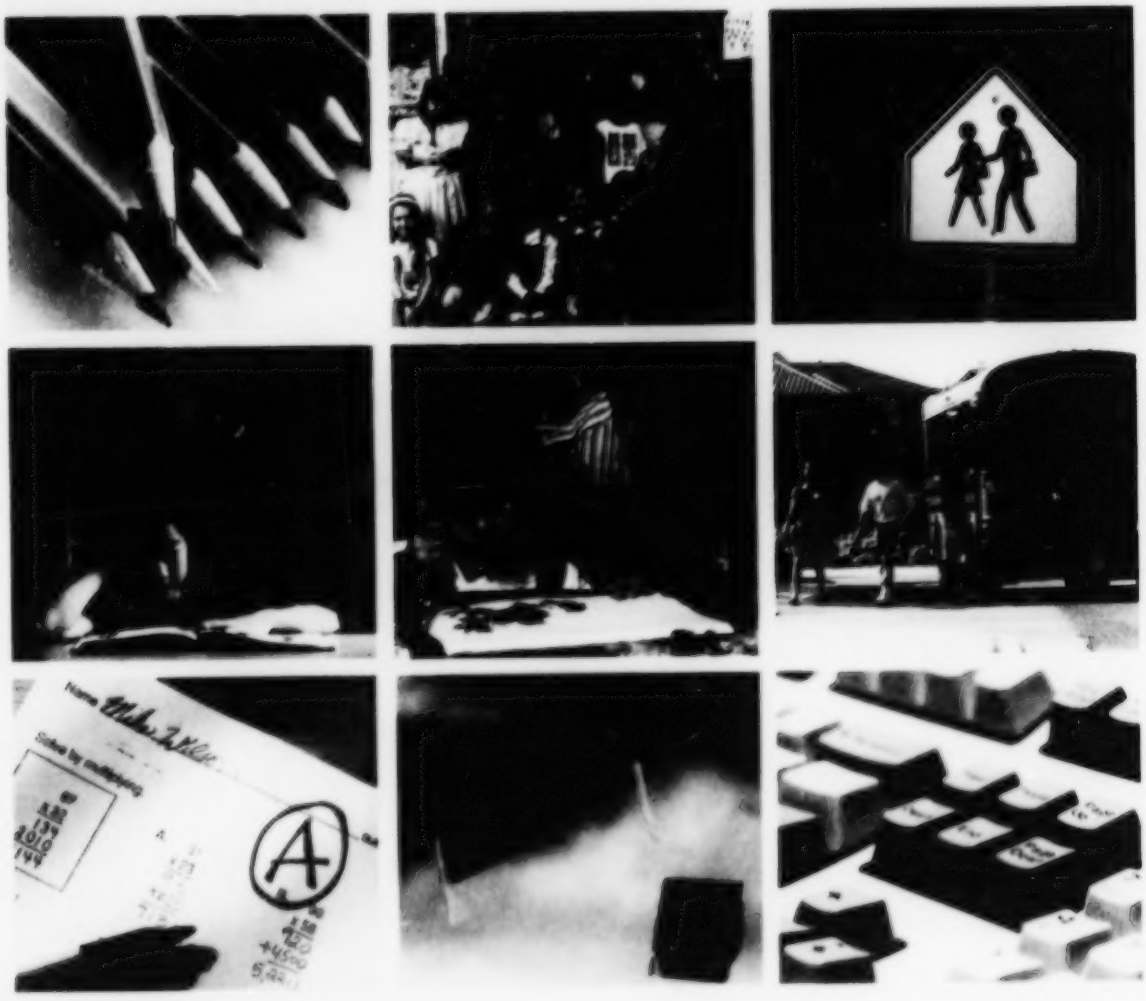

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